

FCC DOCKET NO. 97-231
AFFIDAVIT OF SHARON NORRIS

Finally BellSouth has not demonstrated its ability to increase the capacity of its systems sufficiently and in a time frame necessary to effectively serve competing providers. Accordingly, BellSouth's operational support systems do not meet the nondiscriminatory access requirements of [the] checklist. . . .

ALJ Recommendation at 30.

7. The Chief ALJ's recommendation included a detailed discussion of the evidence supporting her conclusions with respect to OSS. For example, at the time of the Chief ALJ's recommendation, there was almost no practical experience involving CLEC use of BellSouth's primary pre-ordering interface, LENS, or its primary ordering interface, EDI. At that time, less than a thousand orders had been placed via LENS throughout BellSouth's nine-state region and AT&T was the only CLEC that had completed service readiness testing for EDI. Compounding the problems resulting from this lack of actual operational experience, BellSouth's principal OSS witness before the LPSC conceded that BellSouth had presented "no evidence of the results of any testing" to the LPSC. ALJ Recommendation at 24, citing testimony of BellSouth witness Gloria Calhoun, Hearing Tr. 516, 519.

8. Moreover, BellSouth's own testimony before the Chief ALJ established that it does not provide the required nondiscriminatory access to its OSS. The Chief ALJ found that the "LENS system for preordering is not set up to interact directly with a competitor's own operational support systems, and, instead, requires manual input" while "BellSouth's own operational support systems can communicate with each other, without manual intervention." ALJ Recommendation at 26-27, citing Calhoun testimony, Hearing Tr. 410-11.⁷ The ALJ

⁷ The Chief ALJ rejected BellSouth's claim that CLECS could create their own software to
(continued...)

FCC DOCKET NO. 97-231
AFFIDAVIT OF SHARON NORRIS

found that BellSouth had not introduced any data reflecting how long it would take a CLEC to place an order using LENS compared to the length of time a BellSouth representative would need to place an identical order. Id. at 25, citing Calhoun testimony, Hearing Tr. at 451-52. Moreover, the Chief ALJ found that BellSouth's interfaces for maintenance and repair, EBI and TAFI, "also require human intervention, in contrast to BellSouth's own maintenance and repair capabilities which are fully electronic." Id.

9. The Chief ALJ further found that BellSouth had failed to demonstrate that its OSS would provide the same kinds of information or service to competitors as they provide to BellSouth. For example, BellSouth's internal systems permit it to "readily reserve telephone numbers . . . while competitors are limited by LENS to reserving six telephone numbers at a time." Id. at 26, citing Calhoun testimony, Hearing Tr. at 333. Moreover, BellSouth processes competitors' orders through EDI in batches, rather than immediately upon placement of the order, as it does for itself. Id.

10. The Chief ALJ also found that the record raised "concern regarding the capacity of BellSouth's various interfaces to handle the needs of new entrants." Id. at 27. For example, BellSouth conceded that LENS and EDI have a joint, region-wide, capacity which exceeds the capacity of the Local Exchange Service Order Generator to which orders from LENS and EDI would generally be sent. Id., citing Calhoun testimony, Hearing Tr. at 297-

⁷ (...continued)

allow direct interaction with LENS. She found that LENS is a proprietary system controlled by BellSouth and not conforming to industry standards to which competitors could look in creating appropriate software and that BellSouth had failed to provide the necessary technical information to enable competitors to develop systems to interact with LENS. Id. at 27.

FCC DOCKET NO. 97-231
AFFIDAVIT OF SHARON NORRIS

98. Moreover, BellSouth acknowledged that its TAFI system can be accessed for repair and maintenance by only 65 simultaneous users region-wide (*id.* at 28, citing Calhoun testimony at 354), while AT&T's local maintenance center alone has 300 customer service representatives, each of whom may need to access TAFI at any time (*id.*, citing testimony of AT&T witness Bradbury at 1699). Again, the Chief ALJ found that BellSouth "has not provided evidence of any testing results to demonstrate its ability to increase its capacity sufficiently and in a time frame to effectively serve competing providers." *Id.*

11. In sum, based on the voluminous written record and oral hearings over which she had presided, the Chief ALJ made detailed factual findings supporting her conclusion that BellSouth had failed to demonstrate that its OSS was providing nondiscriminatory access to BellSouth competitors.

III. THE LPSC TECHNICAL CONFERENCE

12. On August 13, 1997, just a day prior to the date on which the Chief ALJ's recommendation was due, the LPSC held a technical conference concerning BellSouth's OSS. The Chief ALJ did not attend the conference and no transcript of the conference has been made. Only three of the five LPSC commissioners attended the conference. We were not advised in advance as to the format of the conference and provided no opportunity to suggest changes⁸. At the conference, BellSouth was afforded at least two hours to present a

⁸ Indeed, the LPSC rejected one Commissioner's efforts to ensure that all parties would have an opportunity to be heard at the technical conference. Commissioner Field made a motion to permit intervenors to cross-examine BellSouth's witnesses and to make their own presentations at the conference. See Complete Transcript of the July 28, 1997 Special Open Session of the
(continued...)

FCC DOCKET NO. 97-231
AFFIDAVIT OF SHARON NORRIS

demonstration and answer questions concerning its OSS. By contrast, AT&T and MCI were only granted 30 minutes each to make presentations. Sprint, ACSI and other parties were denied opportunities to make presentations at the conference, despite the fact that Sprint had flown in an OSS expert to make a presentation.

13. BellSouth's representative, William Stacy, made a presentation concerning three of BellSouth's interfaces, LENS, EDI-PC and TAFI. It is important to note, however, some of the significant matters not addressed at all by BellSouth's presentation. For example, BellSouth did not demonstrate the ordering systems (the Regional Negotiation System or the Service Order Negotiation System) used by its own personnel. Thus, BellSouth's demonstration could not, even in theory, show whether the interfaces available to CLECs provided the same access to BellSouth's systems as that enjoyed by its own personnel. BellSouth's presentation also did not address the detailed deficiencies the Chief ALJ would cite the very next day as the basis for her conclusion that BellSouth had failed to show that its OSS provided nondiscriminatory access to CLECs. BellSouth provided no testing data, admitted that LENS required manual intervention, admitted that LENS was being changed on a weekly basis, and did nothing to address concerns about capacity and disparate access to information

⁸ (...continued)

LPSC (attached as Appendix C-1, Tab 116 to BellSouth's Application herein), at 4. The LPSC rejected the motion, with Commissioner Blossman stating:

But, Commissioner, if I may, they had cross-examinations with hearings [before the ALJ] for two weeks . . . and if we go into that at the demonstration, it's going to -- it might turn into a two week demonstration and that's not what we want. We want this to be a demonstration by Bell to show us that their OSS's work.

Id. at 7 (emphasis added).

FCC DOCKET NO. 97-231
AFFIDAVIT OF SHARON NORRIS

that the Chief ALJ elaborated upon the next day. BellSouth also admitted that LENS was limited to placing orders for migrations (switch as is and switch with changes), new installations and disconnects, and that it could not therefore be used to service an existing CLEC customer's account.

14. Indeed, instead of putting to rest concerns about BellSouth's OSS, the technical conference provided new, demonstrative evidence that BellSouth's OSS did not even remotely provide nondiscriminatory access to competitors. For example, Mr. Bradbury and I described severe problems AT&T was experiencing at that very time with BellSouth's failures to meet due dates and BellSouth's regional street address guide ("RSAG") system. BellSouth uses the RSAG system to obtain access to street address information. BellSouth requires a character-for-character match to process orders which, in turn, means that AT&T must have access to the information contained in the RSAG system. When AT&T began to increase its usage of the RSAG system in August 1997 as part of its marketing efforts in Georgia, AT&T experienced significant problems with the availability of the system on a daily basis, forcing AT&T to curtail its marketing activities as soon as it attempted to ramp them up. Remarkably, none of the LPSC Commissioners expressed any concern about existing problems with BellSouth's system affecting literally hundreds of orders.

15. During its presentation, MCI made a compelling demonstration of the discriminatory performance of the systems used by BellSouth for placing orders for its customers and the LENS system available to CLECs, as well as related discrimination in provisioning. First, the MCI representative ordered an additional feature, using RightTouch,

FCC DOCKET NO. 97-231
AFFIDAVIT OF SHARON NORRIS

BellSouth's automated customer ordering system. The order was processed in approximately 90 seconds, with same day provisioning without a customer premises visit. Second, MCI ordered the same additional feature by placing a call directly to a BellSouth customer service representative in Shreveport, who was able to take and confirm the order for installation that same day in approximately three minutes, again without a premises visit. By contrast, the MCI representative then placed an order to migrate a BellSouth customer to MCI (switch as is) -- while adding the additional feature -- through the LENS interface.⁹ The order took about 15 minutes to process, and LENS reported that a premises visit would be required to complete the order the next day. Thus, at least 24 hours would be required to complete the order.

16. Thus, the LPSC technical conference did not alleviate the concerns about BellSouth's OSS presented to the Chief ALJ and which provided the basis for the Chief ALJ's recommendation that BellSouth had failed to meet the competitive checklist. To the contrary, the technical conference provided additional evidence that BellSouth does not provide competitors nondiscriminatory access to its OSS -- a conclusion subsequently reached by others who attended the conference.

17. First, just two days after the conference, the LPSC's Staff, which had attended the technical conference, provided its recommendations to the LPSC, including the Staff's endorsement of the Chief ALJ's conclusions concerning OSS:

⁹ MCI could not place an identical order for an additional feature through LENS, because LENS does not provide for feature additions. However, both a feature addition and a migration should be available on a same day basis, if received by BellSouth by 3:00 P.M., as was the case for all the MCI orders.

FCC DOCKET NO. 97-231
AFFIDAVIT OF SHARON NORRIS

The Staff concurs in the ALJ's observations and conclusions reached in her 271 recommendation with regard to OSS.

Moreover, the Staff thinks it would be prudent to withhold judgment as to BellSouth's OSS compliance with the checklist until the FCC issues its ruling on the Ameritech 271 Application. This decision is due to be issued no later than August 19, 1997. The FCC has stated that it will provide a "road map" to the Regional Bell Operating Companies as to what the FCC will require as to checklist compliance, including OSS. Proceeding in this manner will ensure that BellSouth can revise its SGAT, if necessary, to meet the requirements set forth by the FCC in its Ameritech decision.

LPSC Staff Recommendation at 3.

18. Second, Jan Cook, a member of the Alabama Public Service Commission ("APSC"), attended the conference and, in fact, was introduced at the conference. The technical conference apparently did not persuade Commissioner Cook that BellSouth's OSS provided nondiscriminatory access to competitors. Two months after the conference, the APSC unanimously found that BellSouth's 271 application was still "premature." With respect to OSS the APSC concluded:

It appears to us that BellSouth's OSS interfaces must be further revised to provide nondiscriminatory access to BellSouth's OSS systems as required by §251(c)(3) of the '96 Act. We have concerns that such nondiscriminatory access is not currently being provided.

APSC Docket 25835, Petition for Approval of a Statement of Generally Available Terms and Conditions Pursuant to §252(f) of the Telecommunications Act of 1996 and Notification of Intention to File a Petition for In-Region InterLATA Authority with the FCC Pursuant to §271 of the Telecommunications Act of 1996, Order issued October 16, 1997 at 7.¹⁰

¹⁰ Similarly, after Mr. Stacy of BellSouth conducted an OSS demonstration before the Florida Public Service Commission ("FPSC") Staff the day after his demonstration before the LPSC,
(continued...)

IV. THE LPSC'S CONSIDERATION OF THE OSS ISSUE

19. Just six days after the technical conference, on August 20, 1997, the LPSC voted by a 3 to 2 margin not to follow the recommendations of the Chief ALJ or the LPSC Staff but, instead, to approve BellSouth's SGAT, subject to certain modifications, and to find BellSouth in compliance with Section 271.¹¹ On September 5, the LPSC issued its Compliance Order. The LPSC's "analysis" of the OSS issue, which is reprinted below, was based entirely on the technical conference:

Perhaps the single most hotly contested aspect of the instant proceedings was the sufficiency of BellSouth's Operations Support Systems, LENS, EDI, and TAFI. To resolve the questions raised regarding these systems the Commission conducted a technical conference, and approximately one hundred and fifteen (115) data requests relative to these systems were propounded. Following careful consideration and analysis, the Commission concludes that the Operational Support Systems do in fact

¹⁰ (...continued)

the FPSC Staff concluded that BellSouth's OSS currently fails to provide nondiscriminatory access to its competitors. Memorandum of FPSC Staff, Docket No.960786-TL, Consideration of BellSouth Telecommunications, Inc.'s Entry into InterLATA Services Pursuant to Section 271 of the Federal Telecommunications Act of 1996, (October 22, 1997), aff'd in part, FPSC, Special Commission Conference Vote (November 3, 1997).

¹¹ The LPSC's refusal to adopt its Staff's recommendation that the LPSC withhold its judgment until it could consider this Commission's Ameritech Michigan Order (which was released on August 19, the day before the LPSC's vote) is perhaps explained by the comments of Commissioner Blossman at the meeting:

It's no secret that the FCC attempted to re-write the federal law in issuing its regulations. They were chastised by Congress and the 8th Circuit for doing this. If the FCC had their way, we would have a national set of rules that would cut the Commission out of the decision making process. Speaking for myself, I'm not going to be intimidated or forced into the position by the FCC. I think we must make our own decision based on Louisiana markets and do what's best for Louisiana.

Partial Minutes of August 20, 1997 Open Session of the LPSC Held in Baton Rouge, LA (attached as Appendix C-1, Tab 135 to BellSouth's Application herein), at 2.

FCC DOCKET NO. 97-231
AFFIDAVIT OF SHARON NORRIS

work and operate to allow potential competitors full non-discriminatory access to the BellSouth system.

LPSC Compliance Order at 15.

20. On its face, the order does not explain what occurred at the conference to indicate that BellSouth was providing nondiscriminatory access to its OSS, much less refute or even address the detailed findings and analyses underlying Chief ALJ's conclusion that BellSouth was not providing nondiscriminatory access. Indeed, there is no way the LPSC could have made such a nondiscrimination determination on a rational basis, because, as noted above, BellSouth never presented to the LPSC the systems used by its own customer representatives.

V. CONCLUSION

21. As described in detail in the Chief ALJ's Recommendation, the record before the LPSC clearly shows that BellSouth's OSS are not currently providing equal access to CLECs. Nothing occurred at the LPSC's technical conference to refute the Chief ALJ's findings and conclusions. Indeed, the conference provided significant additional evidence that BellSouth is not providing nondiscriminatory access to its OSS. The LPSC Compliance Order does not mention, much less address, the deficiencies identified by the Chief ALJ. Because the LPSC does not explain the basis for its reasoning on the critical OSS issues, this Commission should not accord any weight to the LPSC's order with respect to those issues.

I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Executed on November 20, 1997

Sharon Norris
Sharon Norris

SUBSCRIBED AND SWORN TO BEFORE ME THIS 20th DAY OF NOVEMBER, 1997.

Shirley C. Calbert
Notary Public

My Commission Expires:

Notary Public Gwinnett County, Georgia
My Commission Expires March 14th, 1999